

# EXHIBIT 2

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UMG RECORDINGS, INC., CAPITOL  
RECORDS, LLC, CONCORD BICYCLE  
ASSETS, LLC, CMGI RECORDED MUSIC  
ASSETS LLC, SONY MUSIC  
ENTERTAINMENT, and ARISTA MUSIC,

*Plaintiffs,*

v.

INTERNET ARCHIVE, BREWSTER  
KAHLE, KAHLE/AUSTIN FOUNDATION,  
GEORGE BLOOD, and GEORGE BLOOD  
L.P.,

*Defendants.*

Case No. 1:23-cv-07133-LGS

**DEFENDANTS INTERNET ARCHIVE, BREWSTER KAHLE,  
GEORGE BLOOD, AND GEORGE BLOOD L.P.'S INITIAL DISCLOSURES**

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Defendants Internet Archive, Brewster Kahle, George Blood, and George Blood L.P. ("Defendants") hereby make the following initial disclosures to Plaintiffs.

Defendants base these initial disclosures on information reasonably available to Defendants at the present time. Defendants reserve the right to supplement these initial disclosures pursuant to Rule 26(e) as further developments occur and as Defendants obtain additional information through discovery and investigation. By making these disclosures, Defendants do not waive their right to object to the use of any information disclosed herein in this or any other proceeding.

A. **INDIVIDUALS WITH DISCOVERABLE INFORMATION – RULE 26(a)(1)(A)(I)**

Defendants believe the following individuals likely possess discoverable information that Defendants may use to support their claims or defenses, other than solely for impeachment. Defendants do not represent that they disclose herein every possible witness possessing any such potentially discoverable information:

1. Brewster Kahle, Digital Librarian at Internet Archive. Categories of information include the origin and purpose of the Great 78 Project, the receipt, digitization, upload, preservation and storage of 78 rpm records in connection with the Great 78 Project; the research of metadata of 78 rpm records on Internet Archive's website relating to the Great 78 Project; the availability of 78 rpm records on Internet Archive's website; the functions and features of Internet Archive's website relating to the Great 78 Project; Internet Archive's status as a not-for-profit research library; and Plaintiffs' communications with Internet Archive concerning the Great 78 Project and certain 78 rpm records at issue. Mr. Kahle may be contacted through counsel at Latham & Watkins LLP.

2. Liz Rosenberg, Donations Manager at Internet Archive. Categories of information include the donations, receipt, digitization, preservation and storage of 78 rpm records in connection with the Great 78 Project; the research of metadata of 78 rpm records on Internet Archive's website relating to the Great 78 Project; and patron engagement with the website relating to the Great 78 Project. Ms. Rosenberg may be contacted through counsel at Latham & Watkins LLP.

3. Brenton Cheng, Senior Engineer of Patron Experience at Internet Archive. Categories of information include the functions and features of the Internet Archive website

relating to the Great 78 Project; and patron engagement with the 78 rpm records on Internet Archive's website. Mr. Cheng may be contacted through counsel at Latham & Watkins LLP.

4. George Blood, founder of George Blood L.P. Categories of information include the digitization, preservation, and metadata collection process of 78 rpm records in connection with the Great 78 Project; and the unique attributes of 78 rpm records. Mr. Blood may be contacted through counsel at Latham & Watkins LLP.

5. The officers, employees, or agents of Plaintiffs. Categories of information include the ownership and chain of title of the Sound Recordings at issue; Plaintiffs' marketing and exploitation of the Sound Recordings at issue; the differences between Sound Recordings as made commercially available by Plaintiffs and the 78 rpm records made available on Internet Archive's website; the license fees, revenues, profits, and other monetary benefits Plaintiffs have received from exploiting the Sound Recordings at issue; Plaintiffs' alleged harm suffered; and Plaintiffs' investigation of the Great 78 Project.

**B. DESCRIPTION OF DISCOVERABLE DOCUMENTS – RULE 26(a)(1)(A)(II)**

Defendants identify the following categories of documents in their possession, custody, or control that Defendants may use to support their claims and defenses:

1. documents related to the donation, receipt, digitization, upload, and storage of 78 rpm records;
2. documents related to the research of 78 rpm records on Internet Archive's website relating to the Great 78 Project;
3. documents related to the availability of 78 rpm records on Internet Archive's website;

4. documents related to the functions and features of Internet Archive's website relating to the Great 78 Project;
5. documents related to the patron engagement with of 78 rpm records on Internet Archive's website;
6. documents related to Internet Archive's status as a not-for-profit research library;
7. documents related to the differences between the Sound Recordings made commercially available by Plaintiffs and the 78 rpm records made publicly available on Internet Archive's website; and
8. documents related to Plaintiffs communications with Internet Archive concerning the Great 78 Project.

**C. CATEGORIES OF DAMAGES – RULE 26(a)(1)(A)(III)**

Defendants currently do not intend to seek damages against Plaintiffs, but reserve the right to seek costs and attorneys' fees pursuant to 17 U.S.C. § 505.

**D. INSURANCE AGREEMENTS – RULE 26(a)(1)(A)(IV)**

Defendants Internet Archive and Brewster Kahle are not aware of any insurance agreement pursuant to which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be rendered in the action or to indemnify or reimburse for payments made to satisfy such a judgment.

Defendants George Blood and George Blood L.P. are parties to insurance agreements under which insurance providers, subject to certain terms and applicable coverage limits, may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy judgment. Defendants George Blood and George Blood L.P. will produce the referenced insurance agreements.

Dated: November 1, 2023

LATHAM & WATKINS LLP

By: /s/ Andrew Gass

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*Attorneys for Defendants Internet Archive,  
Brewster Kahle, George Blood, and George  
Blood L.P.*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2023, I caused a true and correct copy of  
**DEFENDANTS INTERNET ARCHIVE, BREWSTER KAHLE, GEORGE BLOOD, AND**  
**GEORGE BLOOD L.P.'S INITIAL DISCLOSURES** to be served via email, per the written  
agreement of the parties, to:

Corey Michael Sclar Miller  
Danaei Tinelli  
Matthew Jan Oppenheim  
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/s/ Andrew Gass  
Andrew M. Gass